IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3510 OF 2005.

Shri Balekhan Gulab Mulani
and others. ... Petitioners.

V/s.

Smt.Rukminibai Pandurang Salve
and others. ... Respondents.

Ms.A.S.Prabhu i/b. N.V.Bandiwadekar
for the petitioners.

Ms.D.U.Badadare i/b. P.R.Arjunwadkar
for respondent Nos.1(a) to 1(c).

CORAM: V.C.DAGA, J.

DATED: 10th March 2006.

P.C.:

. Heard learned counsel for the parties.

. Rule. Rule returnable forthwith by consent of parties.

2. The petition is directed against the order dated 13th April, 2005 passed below Exh.106 in Regular Civil Suit No.10/2003 by the Civil Judge, Senior Division, Karad, whereby the application seeking appointment of Court Commissioner for local inspection came to be rejected.

3. Considering the controversy between the parties, it would be in the interest of justice to appoint D.I.L.R. to have measurement of the suit

property. The law laid down by this Court in the case of **Kisanlal v. Dinkar**, 2004(1) Mh.L.J. 138 is clear on this aspect of the matter. The evidence of parties has already been recorded.

4. In the above view of the matter, the trial Court is directed to appoint D.I.L.R. to determine the exact area of the suit land. This exercise must be done before hearing of the suit.

5. Petition is allowed. Rule is made absolute in terms of this order with no order as to costs.

(V.C.DAGA, J.)